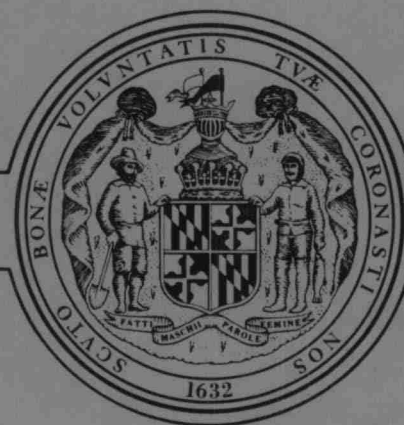


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State Ethics Commission

ANNUAL REPORT 1989



STATE OF MARYLAND
EXECUTIVE DEPARTMENT

WILLIAM DONALD SCHAEFER
GOVERNOR



STATE ETHICS COMMISSION

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STATE ETHICS COMMISSION

Eleventh Annual Report

January 1, 1989 - December 31, 1989

NOTE: Peter Moser served as Chairman until June, 1989.

State Ethics Commission

Eleventh Annual Report

January 1, 1989 - December 31, 1989

GENERAL STATUTORY IMPLEMENTATION

The State Ethics Commission met 10 times during Calendar Year 1989. During the year the Commission was involved in program activity relating to all areas of its statutory mandate. These include financial disclosure, conflict of interest, lobbyist disclosure, local government ethics laws, school board ethics regulations, advisory opinions, enforcement matters and public information activities.

Issuance of Advisory Opinions

The Commission issues advisory opinions in response to requests from officials, employees lobbyists, and others who are subject to the Law. Additionally, the Commission may issue advisory opinions to other persons at its discretion. During Calendar Year 1989, the Commission received 26 requests for formal advisory opinions and issued 16 formal published opinions. There were eight requests for advisory opinions pending at the end of the calendar year, and two requests were withdrawn. All but one of the formal opinions issued in 1989 involved the conflict of interest provisions of the Law. Most of these opinions dealt primarily with the employment or ownership interest prohibitions under §3-103(a) of the Law. One opinion focused on post-employment issues and one opinion (No. 89-4) responded to a lobbyist question concerning the restrictions on contingent fees. Three opinions dealt in part with State employees serving on private boards. One opinion (No. 89-7) covered the requirements of HB 890 which covered disclosure and County Council member's non-participation requirements relating to political contributions and zoning matters in Prince George's County. Other areas of the Law cited in opinions include the non-participation requirements, the prohibition against using position for personal gain and the misuse of confidential information. One significant opinion (No. 89-2) covered prohibitions on licensing board members serving as witnesses in malpractice cases. One factor reducing the number of formal opinion requests and opinions issued by the Commission is the large number of existing opinions that can now be used for informal guidance. The Commission staff was able to provide informal guidance in about 425 potential formal request situations based on existing opinions of the Commission. The Commission itself provided informal advice in lieu of formal guidance, usually in the form of a letter, based on past opinions in 93 situations during the year. This informal guidance covered questions or issues arising under all parts of the Ethics Law. The use of informal advice by the Commission has grown rapidly with the need for quick response and the availability of precedents established in formal opinions issued over a ten year period.

Financial Disclosure

The administration of the financial disclosure program continued to involve the identification of those required to file, providing technical assistance to filers and monitoring compliance with the Law. Compliance review of forms is conducted as part of a phased program for review of the forms of all officials and employees. Currently there are over 5,000 persons filing financial disclosure forms. In addition, copies of all judicial official financial disclosure forms are also filed

at the Commission office. As part of the review program, letters are sent to filers regarding the need to provide further information in order to meet filing requirements. The Commission received funding in the Fiscal Year 1990 Budget that will allow for a contractual position to assist in making the review of financial disclosure forms on a more timely basis.

In addition to the regular financial disclosure program, a substantial number of gubernatorial appointees to boards or commissions seeking limited conflict of interest exemptions from the appointing authority and from the Senate where confirmation is required, must file a form disclosing areas of existing conflicts with the Commission. The Commission staff coordinates the review of these forms with the appointing authority and discusses the filing requirements with the appointees.

Lobbyist Disclosure and Regulation

During the lobbying year which ended on October 31, 1989, 844 lobbying registrations were filed with the Commission. This represents a substantial increase from the 662 registrations filed in 1987 and the 744 filed in 1988. The 844 registrations were filed by 452 different lobbyists on behalf of 601 separate employers. (Some employers have more than one lobbyist and many lobbyists have more than one employer.) This is an increase from 545 employers having one or more registrants in the previous year. Although the largest number of lobbyists are registered during the legislative session, registrations are beginning and ending throughout the lobbying year, which begins on November 1 and ends on October 31 of the following year. Most persons registered to lobby have only a single registration representing one employer. However, 65 lobbyists had two or more registrations during this time period. Thirty-three registrants had four or more employers.

The 452 individuals registered as lobbyists during the reporting period was an increase from the previous year where there were 415 different individuals registered as lobbyists. The \$10,634,445 in expenditures reported for the period of October 31, 1989 represents an increase of \$1,228,686 over the previous year. Lobbying expenditures have significantly increased since the Commission reported \$2,864,454 of expenditures in 1979, the first year the Ethics Commission administered the filing program. An analysis of individual reports indicates that 52 lobbyist employers reported having total lobbying expenditures of \$50,000 or more. There were 124 lobbyist employers reporting total expenditures of \$25,000 or more. Reports of individual lobbyists registered on behalf of one or more employers indicate that 29 of these persons reported \$50,000 or more in compensation for services. 15 lobbyists reported compensation of \$100,000 or more. Topic areas involving large total employer expenditures during the reporting period included health, utilities, insurance, banking, business and labor. A list of those employers expending \$25,000 or more and those lobbyists reporting \$50,000 or more in compensation is included in the appendices of this report.

The following expenditure data summarizes lobbying expenditures for the last three lobbying years:

| | <u>10/31/87</u> | <u>10/31/88</u> | <u>10/31/89</u> |
|---|-----------------|-----------------|-----------------|
| 1. Expenditures for meals and beverages for officials or employees or their immediate families. | \$ 306,145 | \$ 326,542 | \$ 395,883 |
| 2. Expenditures for special events, including parties, dinners, athletic events, entertainment, | | | |

| | | | |
|--|--------------------|--------------------|---------------------|
| and other functions to which all members of the General Assembly, either house thereof, or any standing committee thereof were invited. (Date, location, group benefited, and total expense for each event are also reported.) | \$ 249,584 | \$ 237,111 | \$ 242,871 |
| 3. Expenses for food, lodging, and scheduled entertainment of officials and employees and spouses for a meeting given in return for participation in a panel or speaking engagement at the meeting. | \$ 12,056 | \$ 12,411 | \$ 5,941 |
| *4. Expenditures for gifts to or for officials or employees or their immediate families (not including sums reported in 1, 2, and 3). | \$ 295,707 | \$ 131,722 | \$ 150,618 |
| <u>Subtotal of items 1, 2, 3, & 4</u> | <u>\$ 863,493</u> | <u>\$ 707,785</u> | <u>\$ 795,313</u> |
| 5. Total compensation paid to registrant (not including sums reported in any other section). | \$5,388,846 | \$6,650,424 | \$7,804,713 |
| 6. Salaries, compensation and reimbursed expenses for staff of the registrant. | \$ 437,286 | \$ 632,261 | \$ 646,481 |
| 7. Office expenses not reported in items 5 and 6. | \$ 462,829 | \$ 623,365 | \$ 680,135 |
| 8. Cost of professional and technical research and assistance not reported in items 5 and 6. | \$ 67,432 | \$ 206,268 | \$ 216,695 |
| 9. Cost of publications which expressly encourage persons to communicate with officials or employees. | \$ 222,431 | \$ 392,268 | \$ 290,059 |
| 10. Fees and expenses paid to witnesses. | \$ 10,851 | \$ 9,941 | \$ 10,172 |
| 11. Other expenses. | \$ 181,665 | \$ 183,447 | \$ 190,874 |
| <u>Total of items 1 through 11</u> | <u>\$7,634,832</u> | <u>\$9,405,759</u> | <u>\$10,634,445</u> |

* This category includes the value of race track passes distributed by racing industry lobbyists to State officials. \$92,460 of the \$125,698 reported for gifts in the period ending 10/31/89 reflects value of these passes. In recent years, there has been a substantial decrease in the distribution and acceptance of these passes.

Enforcement Activities

The Ethics Law and implementing rules of the Commission provide that any person may file a complaint with the Commission. Complaints must be signed under oath, and allege a violation of the Law by a person subject to the Law. Additionally, the Commission may file a complaint on its own initiative, and it carries out preliminary inquiries of potential law violations at its discretion.

In Calendar Year 1989 the Commission issued or accepted eighteen complaints. Fourteen complaints involved financial disclosure matters, three complaints involved lobbyist matters and one complaint related to conflict of interest issues. Also, during this year action was completed on fifty-five complaints. Fifty-two of these completed complaint cases were financial disclosure matters and three were lobbyist matters. Eight complaints were still active at the end of the Calendar Year. Forty-three failure to file timely financial disclosure complaints were terminated by accepting late filing as a cure. Five late financial disclosure filing cases were completed by submission of the form, an admission of late filing violations, waiver of confidentiality, acceptance of a reprimand, and the payment of funds to the State in lieu of a potential fine. Eight hundred dollars was collected as a result of this process. One complaint concluded with a finding of violation of the Law after a hearing. The processing of financial disclosure complaints has become an expensive and time consuming process. Although the number of people failing to file after two notices represents only a small percent of those required to file, the Commission believes that in lieu of resorting to court ordered fines, some financial sanction to those who continue to ignore the filing requirements, even after a hearing notice has been issued, is necessary to insure timely availability of forms. Therefore, the Commission has announced as its general case settlement policy the requiring an admission of violation, a reprimand, and a \$100 payment in lieu of a fine in complaint cases where there is a second complaint or where the form is filed at any time after a hearing notice is sent to the non-filer. A hearing is generally scheduled at least 90 days after the report is due and follows two other notices and a complaint document. Where a respondent does not agree to the settlement, a hearing is held.

In regard to conflict of interest enforcement matters, the Circuit Court of Carroll County issued a decision upholding four of five violations found by the Commission in the case of State Ethics Commission vs. Wolfing. The case involved financial disclosure matters and post-employment tax appeal work by the former head of the tax assessment office in Baltimore City. Court consideration of fines and a further appeal by the respondent was still pending at the end of the year. Charges upheld by the Court involved post-employment and financial disclosure violations.

The Commission also completed action on four enforcement matter relating to registration and reporting under the lobbying law. Settlement Agreements as a result of these matters resulted in a total payment of \$1,750, paid to the State, in lieu of potential late fees or fines by lobbyist or their employees.

The Commission is required to report any matter which comes to its attention to the appropriate prosecuting authority if it believes that the conduct may be a violation of criminal law. Two cases involving Commission referrals to a prosecuting authority resulted in guilty pleas in 1989.

Local Government Ethics Laws

Maryland counties and cities are required under Title 6 of the Ethics Law to enact local laws similar to the State law. Criteria for evaluating similarity to

the State Law are defined in Commission regulations. Municipalities, based on size and other factors, may be exempted from all or part of the requirement, though an exemption may be granted only in response to a written request.

In addition to the requirement that counties and cities enact ethics laws, the 1983 Session of the General Assembly amended the Law to require local school boards either to promulgate ethics regulations similar to the State Law or be covered by county ethics laws. The Commission issued regulations covering this requirement in 1983. The Commission was involved, in 1989, in the review of amendments to local government ethics laws and regulations. Most of the staff activity relating to local ethics programs during 1989 involved providing technical assistance to local ethics officials regarding ongoing administration of local government ethics programs. A major local government related activity in 1989 was the implementation of HB 890, the Prince George's County law, impacting on disclosure of political contributions by zoning applicants or their agents and related non-participation requirements for County Council members. The Commission and the staff spent a substantial amount of time preparing opinions and guidelines on this law and in responding to less formal inquiries about the application of this statute. In the second half of 1989, the Commission staff was also involved in working with the Office of the Attorney General on litigation relating to HB 890.

Educational and Informational Activities

The Commission staff has been active in providing information to those covered by the Ethics Law, as well as other persons interested in its requirements. A substantial daily staff workload has involved advising employees, officials, candidates and lobbyists on how to complete forms and providing informal advice regarding possible conflicts of interest. The Commission staff has also assisted local government and school board officials in drafting their ethics laws and regulations. The staff has also provided technical advice to many local government ethics boards. In order to facilitate local government assistance, a statewide survey of local government ethics agency membership was completed. Presentations were made by the staff to various groups interested in the operation of the law including special briefings for several state agency groups.

The annual briefing for lobbyists and those interested in the operations of the lobbying law was held in Annapolis during the 1989 Session of the General Assembly. The Commission has continued to maintain an office in Annapolis during the legislative session in order to provide assistance in the completion of lobbying or financial disclosure forms.

Part of the Commission's public information activity involves distribution of lists of registered lobbyists and provision of assistance to persons inspecting various forms filed with the Commission. Pamphlets describing the Ethics Law have been made available to management level employees in State agencies. Another pamphlet covering ethics requirements for part-time members of State boards and commissions is also being distributed. The Commission has also initiated an ethics bulletin which covers prohibitions, rules, procedures and Commission decisions. A special bulletin is sent to lobbyist when changes are made in that program. A Lobbying Law Information Summary was prepared and distributed in 1989.

LEGISLATIVE RECOMMENDATIONS AND ISSUES

The Commission continues to review the adequacy of the Public Ethics Law as required by the statute. The eight recommendations listed below were specifically suggested by the Commission as issues that would be appropriately addressed by legislation in 1990.*

1. Participation in Matters Involving Adult Children

Section 3-101 of the Ethics Law prohibits an official or employee from participating in matters where the person's spouse, parent, minor child, brother or sister has an interest or is a party. The proposed legislation would add adult children to the direct participation prohibition.

This area of the Law is at issue frequently in advisory opinions and enforcement matters. Unfortunately, the Law has a significant omission in that there is no direct prohibition to keep an official from participating in matters involving an adult child. The Commission has specifically faced several serious situations where this omission has left the public or a State employee substantially unprotected from actual or potential abuse. Generally, these issues arise in the areas of procurement, personnel and regulatory action. The only protection to avoid abuse due to this loophole is the presence of the misuse of prestige section of the law. Violations of this section, however, are difficult to prove and this section does not apply to elected officials.

2. Clarifying and Strengthening Post-Employment Restrictions

The current Public Ethics Law post-employment restrictions contain very technical language requiring close analysis to determine its application. Although the Commission understands the Law's intent to protect the public interest, standing alone it has weaknesses in providing guidance and in handling enforcement cases. This is particularly true in evaluating the contact of higher level employees with primarily management responsibilities. This Commission has faced numerous post-employment matters in the past several years and has cases pending now. Most of these situations have resulted in serious appearance and conflict of interest problems. In some instances, application of the very technical standards in the current Law result in the allowance of activities that simply should not occur. The Commission believes additional more clearly stated standards of conduct will cover the kinds of specific problems the State is facing, maintain credibility in the Law, and not unduly restrict the careers of public employees. It is proposed that the current Law be supplemented with a section applying only officials other than legislators and part-time board and commission members as defined in the Law. Essentially, what is recommended is adding to the current restriction a prohibition against participation for compensation in post-employment matters for one year if the matter was in existence and part of the official's responsibility during the person's last 12 months of State service.

*During the 1990 Session of the General Assembly, legislation was passed responding in whole or in part to recommendations 3, 4, 5, 6, 7, and 8. This legislation has been signed by the Governor.

3. Financial Disclosure Late Fee Authority

This recommended change in the Law would add to the Commission's sanctioning power by providing that if there is a formal finding of a late filing of a Financial Disclosure Statement, the Commission may levy a late fee not to exceed \$250. The Commission is concerned about its limited sanctioning powers. It can reprimand, recommend personnel action by the appointing authority, and go to court to ask for fines.

This means that as a practical matter in all but more serious cases there is no realistic effective way to deal with late filings of financial disclosure statement cases, particularly where employees have left their State job. In order to remedy this problem, the Commission is proposing late fee authority leaving the possibility to go to court to get larger fines when necessary based on the record of the Commission proceeding. The Commission already has late fee authority for lobbyist disclosure matters. The Commission is facing a substantial administrative burden in handling late filing of financial disclosure forms. Currently, late filing matters require multiple notices, formal complaints, settlements, or formal hearings. The presence of late filing fees in the law should help deter the late filing problems.

4. Ethics Law Coverage for High Level Contractual Employees

The Commission has been asked at various times during its existence to evaluate whether a particular contractual employee was subject to the Ethics Law. These matters have generally been resolved informally with advice that such persons were not included as employees or officials intended covered by the Law. When the Ethics Law was originally passed, contractual employees were generally used by the State on a short-term basis for ministerial tasks or to provide for some technical expertise. It was reasonable, therefore, not to require the same limits on these persons in regard to financial disclosure or conflict of interest. In the last five years this situation has been changing. The Commission is now encountering on a frequent basis persons heading programs, handling procurement, providing legal advice or service in other ongoing capacities that involves performing duties inconsistent with the simple concept of acquiring the short-term expert or extra clerical help. The proposed legislation would amend the definition of public official as to persons in the Executive Branch who are to work full-time for six months or more performing the duties of a public official as defined in Article 40A, §1-201(aa)(1). These persons would be covered by the Ethics Law for all purposes, including financial disclosure and conflicts of interest. The existing situation reduces public confidence in the ability of State government to deal with ethics problems.

5. Clarify and Strengthen Lobbying Entity Contributions Information

In the 1986 session of the General Assembly the legislature passed legislation requiring that the name of any contributor that provides 5% or more of the income of a lobbying entity would have to be disclosed if the lobbying entity was primarily organized and operated for the purpose of influencing legislative or executive action. The purpose of this bill was to allow the public and elected officials to determine who was financing various lobbying entities which were often formed solely to lobbying a particular bill. Often, these organizations use the terms "Marylanders For..." in their title. Frequently industry groups or other advocacy groups create these entities. Sometimes there is only one contributor or organization supporting the group. The Commission was recently involved in an enforcement matter involving this part of the Law. The State Prosecutor also reviewed this matter.

The State Prosecutor concluded that the law was unclear and felt that the law could possibly be avoided by having the contributor pay the bills of the organization directly and not actually transfer the contribution. While we do not agree with this analysis as a matter of law, there is a need to close this potential loophole by providing where the funds are spent on behalf of, at the direction of, or in the name of the entity then the funds will trigger registration and reporting requirements for the lobbying entity.

6. Clarify the Ethics Jurisdiction for Local Health Departments

There has been uncertainty regarding the Ethics Law jurisdictional status of employees of some county health agencies. It has been determined by the Commission that the Health Officer in each local department is covered by the State Ethics Law. A similar conclusion has also been drawn regarding agency employees in county jurisdictions except Baltimore City, Baltimore county and Montgomery County where no Commission determination has been made. These three jurisdictions have to a greater or lesser extent depending on the jurisdiction treated these employees as subject to their local ethics law jurisdiction. The peculiar health administrative status of these three jurisdictions is apparently based on history and use of the local personnel system instead of the State system. Some of the same problems also exist, at least for a small group of employees in other jurisdictions. The Ethics Commission has consulted with the Department of Health and Mental Hygiene on this issue but they have no information which would resolve these questions.

In June of 1989 the Commission considered the jurisdictional coverage question when evaluating a potential conflict of interest issue involving a former County Health agency employee now employed by another health agency. As a result of this review the Commission concluded that there was no clear legal basis for determining whether an employee in his new agency was state or local under the Ethics Law. Additionally, a decision as to this particular agency would not clearly end the overall issue in a permanent way. For example, the Department of Health and Mental Hygiene suggests that Prince George's County may soon be considered in the same administrative status as Baltimore City, Baltimore County and Montgomery County. Additionally, other local health units apparently have a mixture of "county" and State employees. This raises the possibility of legal challenges based on payroll status. Ethics agency jurisdiction could be split within the same agency.

There is a substantial legal basis for the position that these county level health agencies are to be covered by the State Ethics Law. In the case of Orndoff v. the State Ethics Commission, the court held that community colleges were bodies of State government, not of local government. This same rationale from this case could be applicable to local health agencies, which are also generally established by State law, heavily funded by the State and are headed by a health officer who is generally controlled by the State Department.

Providing that some agencies are local does result in substantial differences in ethics policy as applied to health issues. Health policy is generally set by State law, not local law. There is a need to clarify the status of the employees of these agencies under the Ethics Law and to use a uniform State jurisdictional approach unless there is clear justification for treating a local department on a different basis.

7. Expanding the Disclosure of Partnership Interests

There are various places on the current financial disclosure form where at least some minimal partnership interest disclosure is required to be disclosed. Usually this is where the partnership has had some specific involvement with the State in the previous year. This disclosure falls rather unevenly regarding whether a partnership gets disclosed and regarding the information to be disclosed. A better approach would be to treat partnership interest the same as interests in corporations. This would insure that these interests are disclosed and that important information is included in this disclosure.

As a result of this significant gap in the disclosure Law the existence of partnership interest often goes fully or partially undisclosed. Partnership interest can be a significant source of conflicts and is more likely to be source of conflict than minor corporate stock holdings.

8. Disclosure for Real Estate Partnership Interest

The Ethics Law generally requires the disclosure of all interests in real property. When the previous financial disclosure law was originally passed in the mid-seventies, an early opinion of the Financial Disclosure Advisory Board (a predecessor agency) took the position that partnership real estate did not have to be disclosed unless the filer held a 30% or greater interest in the partnership. This early opinion relied on the interest attribution provisions now contained in §4-104(b) of the current Law and has been cited to justify non-disclosure of real estate interests by some filers. The Commission, has, however, made it clear that it takes the position that if property is held directly in the name of the partners instead of the name of the partnership, then disclosure is required under the current Law. (Some filers disclose these interests on their own no matter how the property is held).

The ownership of real property is one of the most important categories of disclosure under the provisions of the financial disclosure Law. Partnership ownership is one of the most prevalent forms of investment ownership. Under the current Law it is relatively easy to avoid disclosure of significant interest in real property by holding the interest in the name of a partnership. (This is particularly true because of inadequacies in partnership disclosure generally. See recommendation number 7.) It is proposed that legislation be passed to address this issue and that the legislation require at a minimum that if a person has a partnership interest of 5% or more in a partnership entity holding real estate that the real estate holding be disclosed by the filer.

Other Legislative Recommendations

The recommendations listed below were made in previous Ethics Commission annual reports. The Commission continues to believe that these recommendations are appropriate, based on its experience in administering the ethics program:

- The Law should be formally amended to more specifically reflect advice by the Commission and the Attorney General regarding testimonial fund raising by employees and officials which is fully covered by the Ethics and Elections Law.

- There is a need to review whether the requirement that a lobbyist must always be in the physical presence of an official in order to be required to register should be retained in the Law.

- Some consideration should be given to removing the current language dealing with Commission review of forms in §2-103(e), and substituting a provision for review consistent with standards to be established by the Commission.

- There is a need to consider adding former officials and employees to the persons prohibited from using confidential information under §3-107 of the Law.

- There is a need to consider granting the Commission at least minimal fining authority in order to reduce delay and expensive court proceedings.

- The bi-county agency ethics regulations requirements should be reviewed to make sure that sufficient penalty provisions are provided and that the current ethics regulations of the agencies meet the intent of the Law.

- In order to avoid uncertain and confusing application and administration of the Law, the special provisions of §6-202 making members of State boards funded in whole or in part by Baltimore County subject to the county disclosure law instead of the State law should be considered for elimination or at a minimum copies of these forms should be filed with the State Ethics Commission.

- The current Law does not seem to clearly deal with gifts from foreign governments. There is a need to review the issue and clarify the Law.

- The criteria for financial disclosure by executive and legislative branch officials utilize qualitative considerations in addition to salary. The financial disclosure standards for judicial branch employees utilize only a salary standard. As a result of this standard, certain judicial personnel such as court reporters are included in the filing requirements. The Commission believes the judicial financial disclosure standards should be amended to include qualitative criteria in addition to salary.

- The provisions for confidentiality in the Ethics Law should be reviewed to determine if they adequately protect privacy without denying needed information to operations agencies or the public.

- Consideration should be given to having new officials file a financial disclosure statement covering their holding as of the time when they come into their position rather than for the previous calendar year.

- The Ethics Law prohibits certain types of representation before State agencies. However, except for legislative disclosure under §3-102 of the Ethics Law, there is no required disclosure of representation before State agencies. It is recommended that officials who appear before State agencies for compensation include on their annual disclosure form at a minimum the identity of any agencies involved in this compensated representation.

- The need for disclosure of interest in mutual funds should be reviewed to determine if this information is fully necessary to accomplish the purposes of the Law.

- The provisions of §4-104(c) regarding attributable interests should be modified to reduce the burden caused by the disclosure requirements when a person has a small share in a large diverse testamentary trust.

- The provisions covering school board ethics regulations need to be strengthened to assure that there are adequate sanctions for violations by board members, candidates for board membership and lobbyists.

- Judicial candidates should be required to file financial disclosure in each year of their candidacy in the same way as other State officials.

- In election years improperly filed candidate's disclosure forms create unique enforcement problems. Before a violation can be found and made public a variety of confidential administrative and adjudicatory processes have to occur. In most cases this process would extend well beyond the primary election and probably beyond the general election. This means that serious completion problems or even false disclosure could exist unknown to the voting public. A review should be made by the Executive and the General Assembly to determine whether confidentiality should be eliminated for candidate's financial disclosure enforcement cases at an earlier point in the enforcement process.

- The Ethics Law prohibits employees and non-elected officials from intentionally using their prestige of office for their own private gain or that of another. Elected officials, however, are not covered by this provision. In the last eleven years, the Commission has received allegations involving various elected officials under its authority alleging that they had misused their position for their own gain or gain of another. Because the Law does not cover this type of activity by elected officials, the Commission has been unable to respond to these allegations. The Commission recommends that §3-104 of the existing Law be amended to include elected officials, or that a new provision covering these officials dealing with clear cases of abuse should be specifically added to the Law.

- Issues regarding the spouses of employees or officials have arisen in Maryland and on a national basis. The Maryland Public Ethics Law does not consistently and clearly address these issues or provide sufficient policy guidance in these matters. Spouse ethics issues have become more prevalent in part as a reflection of both spouses having careers and other economic relationships. For example, the Law does not clearly deal with the acceptability of gifts to spouses of officials or employees by prohibited donors. Additionally, the financial disclosure provisions do not clearly require gifts received by the spouse to be disclosed by the employee or official even where such gifts are from donors normally requiring official disclosure. Another significant area needing further clarification is under what circumstances is the ownership interest of a spouse to be attributed to the official or employee for conflict of interest purposes under §3-103(a) of the Ethics Law.

APPENDIX 1

EMPLOYER SPENDING \$25,000 OR MORE - ALL REGISTRANTS - ALL TYPES OF EXPENSES

November 1, 1988 - October 31, 1989

| <u>TOTAL AMOUNT</u> | <u>EMPLOYER</u> |
|---------------------|---|
| 1. \$408,788.86 | Health Facilities Association of Maryland |
| 2. 185,837.29 | MNC Financial, Inc. |
| 3. 174,038.69 | Maryland Chamber of Commerce |
| 4. 163,977.08 | Maryland Bankers Association |
| 5. **152,239.13 | Maryland Jockey Club |
| 6. 119,690.10 | C & P Telephone Company of Maryland |
| 7. 100,795.65 | Medical & Chirurgical Faculty of Maryland |
| 8. 94,185.73 | FMC Agricultural Chemicals |
| 9. 94,178.34 | Medical Mutual Liability Insurance Society of Maryland |
| 10. 94,034.74 | Maryland Classified Employees Association |
| 11. 93,385.72 | Maryland Builders Association |
| 12. 92,504.27 | State Farm Insurance Companies |
| 13. 90,332.83 | Potomac Electric Power Company |
| 14. 87,155.46 | Baltimore County, Maryland |
| 15. 86,449.22 | Associated Builders and Contractors |
| 16. 85,236.42 | Chemical Industry Council of Maryland |
| 17. 83,831.23 | Johns Hopkins Health System |
| 18. 83,508.91 | Marylander's for the Right to Choose |
| 19. 83,371.84 | Maryland State Teachers Association |
| 20. 78,278.25 | Tobacco Institute |
| 21. 76,000.00 | American Council of Life Insurance |
| 22. 75,417.52 | UNISYS Corporation |

** (Includes Race Track Passes of \$92,460.00)

| | | |
|-----|-----------|---|
| 23. | 74,952.44 | Bethesda Chevy Chase Chamber of Commerce |
| 24. | 73,363.80 | Nationwide Mutual Insurance Company |
| 25. | 71,570.84 | Mid-Atlantic Petroleum Distributors Assn. |
| 26. | 71,435.00 | Baltimore Gas & Electric Company |
| 27. | 70,859.51 | Crown Central Petroleum |
| 28. | 68,003.91 | Common Cause/Maryland |
| 29. | 68,000.00 | Marine Trades Association of Maryland |
| 30. | 64,957.25 | Maryland State Dental |
| 31. | 61,851.65 | Control Data |
| 32. | 60,100.00 | James T. Lewis Enterprises, Ltd. |
| 33. | 59,563.55 | Maryland State Bar Association |
| 34. | 59,148.15 | Citibank (MD), N.A. T/A Choice |
| 35. | 57,311.70 | Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc. |
| 36. | 57,001.68 | First National Bank of Maryland |
| 37. | 55,473.01 | Associated Utility Contractors of Md., Inc. |
| 38. | 55,359.16 | Apartment & Office Building Association |
| 39. | 54,832.39 | Health Insurance Assn. of America |
| 40. | 54,466.00 | Blue Cross & Blue Shield |
| 41. | 53,885.80 | Maryland State & D.C. AFL-CIO |
| 42. | 52,620.22 | Southland Corporation |
| 43. | 52,389.60 | Philip Morris, U.S.A. |
| 44. | 52,276.33 | American Family Life Assurance Co. |
| 45. | 52,234.39 | National Assn. of Industrial & Office Parks, Md. |
| 46. | 51,832.79 | Maryland Retail Merchants Association |
| 47. | 51,493.29 | Maryland Psychological Association |
| 48. | 51,024.16 | National Federation of Independent Businesses |
| 49. | 50,840.51 | Md. Saltwater Sportfisherman's Assoc. |

| | | |
|-----|-----------|---|
| 50. | 50,839.49 | Maryland Society of Eye Physicians and Surgeons |
| 51. | 50,272.00 | Maryland Hospital Association |
| 52. | 50,000.00 | UIT Association, Inc. |
| 53. | 49,668.00 | Maryland Citizen Action Coalition |
| 54. | 49,607.82 | Maryland New Car & Truck Dealers Assn. |
| 55. | 49,489.94 | Household International |
| 56. | 49,360.37 | Maryland Natural Gas |
| 57. | 47,875.08 | National Association of Independent Insurers |
| 58. | 47,291.28 | Association of Maryland Pilots |
| 59. | 47,004.19 | Cable TV Assoc. of MD., DEL. & D.C. |
| 60. | 46,996.08 | American Insurance Association |
| 61. | 46,806.70 | Maryland Trial Lawyers Association |
| 62. | 46,646.90 | Potomac Edison Co., Inc. |
| 63. | 46,127.59 | CSX Transportation |
| 64. | 45,858.14 | Wheat, First Securities, Inc. |
| 65. | 45,822.66 | Chambers Development Co., Inc. |
| 66. | 45,393.34 | Chesapeake Bay Foundation |
| 67. | 44,627.23 | Bethlehem Steel Corporation |
| 68. | 44,465.70 | MedLantic Healthcare Group |
| 69. | 43,979.41 | Maryland Association of Health Maintenance Organizations |
| 70. | 43,596.09 | R. J. Reynolds Tobacco Company |
| 71. | 43,556.12 | Maryland Association of Mutual Insurance Companies (MAMIC) |
| 72. | 42,870.00 | IBM Corporation |
| 73. | 42,004.39 | Maryland Medical Laboratory, Inc. |
| 74. | 41,853.17 | Rosecroft Raceway |
| 75. | 40,646.81 | Maryland Farm Bureau, Inc. |

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| 76. | 40,383.02 | Lustine Organization |
| 77. | 39,983.51 | Group Hospitalization & Medical Services |
| 78. | 39,049.00 | Planned Parenthood of Maryland |
| 79. | 38,666.24 | Maryland Association of Realtors |
| 80. | 37,248.34 | Maryland Association of Chain Drug Stores |
| 81. | 37,176.15 | Genstar Stone Products Company |
| 82. | 37,049.32 | ATANCA (Automotive Trade Association of the National Capital Area |
| 83. | 36,793.05 | American Lung Association of Maryland |
| 84. | 36,453.55 | Maryland Vehicle Leasing Association |
| 85. | 36,366.20 | United Jewish Appeal Federation of Greater Washington |
| 86. | 35,407.12 | Maryland Legislation for Animal Welfare |
| 87. | 35,358.57 | Maryland Independent College and University Association |
| 88. | 35,025.27 | Suburban Maryland Building Industry Assoc. |
| 89. | 34,500.00 | Aerospatiale Helicopter Corporation |
| 90. | 34,468.63 | American Petroleum Institute |
| 91. | 34,383.00 | Associated Catholic Charities |
| 92. | 34,222.23 | Soap and Detergent Association |
| 93. | 33,375.93 | Montgomery County Board of Realtors |
| 94. | 32,985.75 | A T & T |
| 95. | 32,100.16 | Marriott Corporation |
| 96. | 31,569.05 | Federated Investors, Inc. |
| 97. | 30,852.45 | British Embassy, The |
| 98. | 30,717.24 | Maryland Association of Boards of Education |
| 99. | 30,365.24 | Maryland Thoroughbred Horsemen's Assn. |
| 100. | 30,150.00 | Giant Food, Inc. |
| 101. | 30,096.65 | FMC Corporation |
| 102. | 30,000.00 | Kronheim Company, Inc. |

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| 103. | 30,000.00 | Maryland Coal Association |
| 104. | 30,000.00 | Prince George's County Government |
| 105. | 29,670.85 | Maryland Association of Tobacco and Candy Distributors, Inc. (MATCD) |
| 106. | 29,398.54 | Johns Hopkins University |
| 107. | 29,311.56 | TNT Robin Transport, Inc. |
| 108. | 29,085.44 | Maryland Security Industries |
| 109. | 28,298.34 | Phillips Publishing, Inc. |
| 110. | 27,575.25 | Chase Manhattan Bank, N.A. |
| 111. | 27,436.00 | Maryland Catholic Conference |
| 112. | 27,392.44 | Davison Chemical Div. (W.R.Grace & Co.) |
| 113. | 27,386.34 | Radar Defense Association |
| 114. | 26,973.56 | Maryland Delaware Solid Waste Association |
| 115. | 26,926.43 | National Rifle Association |
| 116. | 26,606.82 | MCI Telecommunications |
| 117. | 26,278.88 | Cigna Dental Health |
| 118. | 26,018.35 | University of Maryland Medical System Corp. |
| 119. | 26,000.00 | Eastern Shore Education Consortium |
| 120. | 25,853.18 | Maryland Motor Truck Association, Inc. |
| 121. | 25,375.00 | Maryland Soft Drink Association, Inc. |
| 122. | 25,305.41 | Cosmetic Toiletry & Fragrance Assoc. Inc. |
| 123. | 25,058.89 | P.I.E. Mutual Insurance Co. |
| 124. | 25,000.00 | Maryland Committee for a Fair Auto Dealer Law |

APPENDIX 2

LOBBYISTS RECEIVING \$50,000 OR MORE IN COMPENSATION - ALL CLIENTS

November 1, 1988 - October 31, 1989

| | | |
|-----|----------------|--------------------------|
| 1. | \$1,034,158.33 | Bereano, Bruce, C. |
| 2. | 312,936.50 | Cooke, Ira, C. |
| 3. | 308,375.64 | Rifkin, Alan, M. |
| 4. | 269,887.00 | Goldstein, Franklin |
| 5. | 256,000.00 | Doyle, James, J., Jr. |
| 6. | 255,534.32 | Pitcher, J. William |
| 7. | 201,154.03 | Schwartz, Joseph, A. III |
| 8. | 183,732.48 | McCoy, Dennis, C. |
| 9. | 183,303.63 | Doolan, Devin John |
| 10. | 178,066.68 | Manis, George, N. |
| 11. | 156,695.75 | Rummage, Frederick, C. |
| 12. | 139,424.96 | Burridge, Carolyn, T. |
| 13. | 122,490.00 | Enten, D. Robert |
| 14. | 117,464.16 | Doherty, Daniel, T. |
| 15. | 116,280.00 | Goeden, James, P. |
| 16. | 99,735.01 | Barbera, Thomas, P. |
| 17. | 90,187.34 | Neil, John, B. |
| 18. | 76,000.00 | Bartholomew, Michael, J. |
| 19. | 74,500.00 | Chew, Fred, D. |
| 20. | 72,945.50 | Neily, Alice, J. |
| 21. | 65,850.50 | Evans, Gerard, E. |
| 22. | 62,420.75 | Shaivitz, Robin, F. |
| 23. | 62,031.47 | Epstein, Harvey, A. |
| 24. | 59,700.00 | Middleton, Michael, C. |

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| 25. | 57,119.00 | Adler, Maxine |
| 26. | 55,000.00 | Blackistone, Morris |
| 27. | 54,356.50 | Funk, David, M. |
| 28. | 52,554.24 | Neall, Robert |
| 29. | 50,675.00 | Canning, Michael, F. |

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